

Banking Supervision Department
 Jerusalem, June 6, 2021
Circular No. C-06-2659

Att: Banking corporations and credit card companies

Re: Sending Notices via Means of Communications (Proper Conduct of Banking Business No. 420)

Introduction

1. In view of the technological advances in the banking sector in recent years, amendments to the Directive were required.

After consulting with the Advisory Committee on Banking Business Affairs, and with the approval of the Governor, I have amended this Directive.

Amendments to the Directive

2. The introduction to the Directive is deleted and replaced by the following words:

“1. The technological revolution in the banking sector in recent years enables the banking corporations in Israel to develop the services that they offer customers and to render efficient, available and high quality banking services that include a range of channels through which services and banking information are obtained.

2. Today, the banking corporations send their customers notices regarding the management of their account through various media including the customer’s personal area on the banking corporation’s website, a mobile app, mail, etc. The Directive was amended in view of the technological advances that facilitate improvements in services for customers and in the effectiveness of delivering notices and sending information in near-real time, and reduced costs of producing and sending messages, and which are consistent with the global trend of reducing the use of paper.”

3. Section 3 of the Directive (“Application”) is deleted and replaced by the following text:

“(a) This Directive shall apply to a banking corporation, as this term is defined in the Banking (Service to the Customer) Law, 5741-1981 (hereinafter, “a banking corporation”).

(b) The Supervisor may determine specific instructions that differ from those listed below and that apply to a specific banking corporation, or, in exceptional cases, may exempt a banking corporation from a specific instruction, if special reasons deem such actions appropriate in the Supervisor’s view, and the reasoning will be recorded.”

4. In Section 4 of the Directive:

1. The definition of “communication channels” will be replaced by “within the meaning of this term in the definition of ‘e-banking services’ in Section 8 of Proper Conduct of Banking Business Directive No. 367 on E-banking, that the banking corporation offers.”

2. The definition of “notices” will be replaced by “Written information sent by a banking corporation to a customer by law, and information that the banking corporation elected to send to its customers and that is designed to aid in the management of their account.”
3. The definition of “a refused check” is deleted.
4. A definition of “Checks Without Cover Law” is added: “Checks Without Cover Law, 5741-1981.”

Explanatory Note

General definitions were provided, and distinctions between types of notices that are no longer needed were canceled. For the sake of clarification, the definition of “notices” does not include marketing or operational notices, and the definition does not limit the specific instructions regarding the dispatch of notices determined in Proper Conduct of Banking Business Directive No. 367. The definition of “communication channels” in the Directive refers the reader to the definition of “e-banking” in Proper Conduct of Banking Business Directive No. 367, which includes a range of communication channels. For the sake of clarification, the Directive does not require the banking corporation to offer its customers all the existing types of communication channels, and the service includes those communication channels that are offered by the banking corporation. For further clarification, this Directive concerns the service of sending notices by digital means and does not regulate information viewing services or online banking activities.

5. In Section 5 of the Directive:

1. In subsection (a), the words “as defined in Section 8 of Directive 367” are deleted.
2. In subsection (b), after the words “The banking corporation meets all” the following words are inserted: “statutory requirements, including.”

Explanatory Note

The ending of Subsection (a) was deleted in view of the definition of “communication channels” in the Definitions Section.

The text of Subsection (b) was amended as there are additional relevant laws in the field of information security.

6. Sections 7, 8, and 9 of the Directive are deleted and replaced by the following text:

“Sending notices

7. (a) The banking corporation shall select the appropriate communication channel for sending a specific notice to a customer who joined the Service, based on the materiality of the information and the required speed of delivery. For this purpose, the banking corporation shall examine the customers’ needs and circumstances and take into account aspects of privacy protection and, among other things, the banking corporation shall examine whether there exists a need to allow the customer to receive the information immediately and in an accessible manner, and whether the customer needs to track, save, and print the notice.
- (b) A banking corporation shall send a voice message, as this term is defined in Proper Conduct of Banking Business No. 367, as an alternative to a written notice, in the event that the banking corporation is aware that the customer is unable to receive or read a text message.

8. (a) Without limiting the generality of Section 7, the banking corporation shall send notices on the following topics to a customer who joined the Service, both on a communication channel that allows the customer to track, save, and print the notice, and on a communication channel that facilitates the delivery of notices in an immediate and accessible manner, such as SMS messages.
- (1) Notices related to a legal action against the customer or notices that might lead to the initiation of legal proceedings against the customer, such as a notice on arrears interest, or a notice before court action;
 - (2) Notice of cancellation, reduction, or non-renewal of a credit facility;
 - (3) Notice of setoff or lien;
 - (4) Notice to guarantors related to a guaranteed debt;
 - (5) Notice by a payment service provider of the termination of a payment service contract;
 - (6) Notice by a payment service provider of its decision to freeze the use of a means of payment.
 - (7) Notice regarding a warning in the event that five checks in an account were refused, in accordance with the terms defined in the Checks Without Cover Law. The notice will include a link to the Checks Without Cover guide on the Bank of Israel website.
 - (8) Notice regarding the imposing of a restriction on a customer or an account, including information on the type of restriction (ordinary, aggravated, special), according to the definitions in the Checks Without Cover Law, and in the event of a special restriction, also the party that ordered the imposing of the restriction, including its contact information. Furthermore, the notice shall include a link to the Bank of Israel's website section on the information system, and authorizations related to restricted customers and accounts.
- (b) Insofar as the banking corporation believes that doing so will enhance the clarity of the information and help the customer understand the notice, the banking corporation may include in a notice sent via a communication channel that facilitates the delivery of notices in an immediate and accessible manner, as stated in subsection (a), summary information together with a suggestion to the customer to peruse the complete notice on another channel appropriate for viewing.
- (c) If the customer is not a subscriber to the Service, the banking corporation will take reasonable steps to inform the customer as soon as possible about the notices listed in Subsection (a) using the means available to it, subject to all laws.
- (d) The banking corporation shall include its contact details in the notices listed in this Section that are sent to its customers.”

Explanatory Note

Section 7(a) of the Directive provides that the banking corporation shall select the communication channel appropriate for sending a specific notice to a customer who is a subscriber to the Service, based on the materiality of the information and the required speed of delivery. On this issue it should be clarified that some notices must be sent via a communication channel, such as a text message, that allows the notice to be sent

immediately and in an accessible manner, and some notices must be sent via communication channels that allows the customer to track, save, and print the notice. Occasionally there is a combination of considerations and the banking corporation must send the notice via several channels concurrently, based on the circumstances and the discretion of the banking corporation. For the sake of clarification, diverse communication channels are available for sending notices, including SMS messages, which constitute a conventional means of sending notices. Proper Conduct of Banking Business Directive No. 367 also makes reference to sending notices via text messages. To implement this section, it is required to delineate and examine the existing types of notices in order to select the appropriate communication channels in each case. To remove all doubt, it should be noted that this section is subject to Section 31 of Proper Conduct of Banking Business Directive No. 367. For the sake of convenience, the current text of that section is copied below. This text may change in the future.

“The banking corporation may offer its customers a channels and services package under the agreement, provided that the customers shall be allowed to select channels in which they are not interested. The aforesaid shall not apply in a case where a bundle of channels is necessary for providing a particular service. The customer may terminate the agreement to obtain a service, a channel or a bundle of channels at any time.”

Section 7(b) determines that a voice message must be sent as an alternative to a text message in the event that the banking corporation is aware that the customer is unable to receive or read a text message.

Subject to the principle stated in Section 7 above and without derogating from its generality, Section 8 of the Directive also contains a list of the notices that the banking corporation is required to send to a customer who is a subscriber to the Service, both via a communication channel that facilitates tracking, saving, and printing, and via a communication channel that allows the notice to be sent immediately and in an accessible manner, such as SMS messages.

With respect to notices on warnings in the event that checks in an account were refused or a restriction was imposed on a customer or an account, which are sent to customers according to the Checks Without Cover Law, 5741-1981 and the Checks Without Cover Regulations, 5741-1981, it should be clarified that this section does not derogate from the obligation to send notices according to the Law and the Regulations.

Subsection (b) provides that insofar as the banking corporation believes that this action will enhance the clarity and comprehensibility of the notice, the banking corporation may present summary data in the notice sent via a communication channel that allows immediate delivery of the notice in an accessible manner, and suggest to customers to peruse the complete notice on another channel that is appropriate for this purpose. Subsection (c) provides that in the cases in which the customer is not a subscriber to the Service, the banking corporation will take reasonable action to inform the customer as soon as possible about the notices listed in this section, using the means available to it and subject to all laws, while ensuring a proper balance between the need to deliver the information to the customer and the need to protect the customer’s privacy. The previous version of this section provided that a general SMS message should be sent to customers who are not subscribers to the Service, referring them to contact the bank for further information. The text of this section was amended in order to expand the means that the banking corporation may use to inform customers who are not subscribers to the Service about said notices as soon as possible, due to their importance.

Subsection (d) provides that the banking corporation shall include its contact information in said notices. Sections 8(a)(7) and 8(a)(8) were adjusted accordingly.

The section was also adjusted to the Payment Services Law, 5779-2019.

7. Sections 10 and 10A are repealed.

Explanatory Note

These sections were repealed in view of the principle that was defined in Section 7 above, and in view of the elimination of the distinction between statutory and non-statutory notices.

8. Section 10b is marked as Section 9.

9. The heading of Section 11 is deleted and replaced by the words “Notices not in writing.” In Section 11, the words “telephone instructions” are deleted and replaced by the words “customers’ instructions not in writing.”

Explanatory Note

The section was amended to avoid references to a specific technology. The term “in writing” is defined in the Interpretation Law, 5741-1981.

10. Section 12 is deleted and replaced by the following:

“Control over the use of the Service and receipt of notices

- (a) A banking corporation shall use computerized tools that allow it to determine whether the customer regularly accesses the notices sent to them through the Service.
- (b) A banking corporation that has indications that the customer has not read the notices sent to them through the Service over a significant period shall send a notice to the customer of this fact via a communication channel that allows the immediate delivery of notices to customers in an accessible manner. The notice will clarify that the banking information sent to the customer is important and should be accessed by the customer. If this situation continues after said notice was sent to the customer, the banking corporation shall make reasonable effort to contact the customer and obtain the customer’s instructions for sending notices in the future.
- (c) If the banking corporation obtains an indication that a notice that the banking corporation intended to send to a customer via communication channels was not delivered to the customer, the banking corporation shall make reasonable effort to contact the customer and confirm that the customer’s contact information for sending notices is correct.”

Explanatory Note

The control mechanism that the banking corporation is required to put in place with respect to customers’ receipt of notices was simplified, and the banking corporation is now required to identify indications of customers’ use of the Service. The section now clarifies what the banking corporation is required to do in the event that there are indications that the customer is not using the Service. For the sake of clarification, the banking corporation is required to apply controls over use of the Service. There is no requirement to confirm that the customer uses all the communication channels that they requested or that they received each and every notice. Nonetheless, this does not exempt the banking corporation from the obligation to apply its discretion and perform controls that are a function of the materiality of the information and the circumstances of each case.

Furthermore, for the sake of clarity, in view of the technological advances and the possibility of maintaining online communications with customers in order to identify customers' preferred means of communication, the banking corporation may optimize this information and maintain the revised contact details of its customers.

11. Section 13 of the Directive is deleted and integrated into Section 17.
12. Section 14 of the Directive is marked 14A and is preceded by the following words:
 - “14(a). When a customer enters their personal area on an application that the banking corporation offers its customers, such as the banking corporation's website or app, a prominent message will be displayed, alerting the customer to the fact that they have new unread messages. The alert will include a link to the designated area where the notices are displayed.
 - (b) The customer will have an option to receive an immediate indication on an accessible channel every time a new notice is received on the app, and the customer will be able to change their choice about receiving said indications in a quick and simple procedure.”

The following heading is added to Section 14A: **“Protecting customers' privacy.”** The following words are inserted at the beginning of Section 14A: “A banking corporation shall confirm that the notice is sent to the customer in a manner that protects the customer's privacy, including:” At the end of this subsection, the words “(hereinafter, ‘complete identifying details’) are deleted and replaced by the following words: “or any other information that might be sensitive for the customer, according to the discretion of the banking corporation.”

Explanatory Note

Notices sent to customers by the banking corporations contain valuable information about customers' financial conduct, which is why customers' awareness of these notices is so important. To direct customers' attention to the notices in their personal area on the website, and to make it easy for them to track the activities in their account, Section 14(a) determines that a prominent alert indicating that new notices are waiting for them must be displayed to the customer when they access their personal area on the website.

Section 14(b) obligates the banking corporation to allow customers to elect to receive an alert when a new notice is uploaded to their personal area on the website, and to cancel these alerts in a simple manner at any time. Alerts about new notices is a conventional mechanism used on websites and applications, and should also be adopted by the banking system.

Section 14A establishes a general requirement to send notices in a manner that protects customers' privacy. Reference to the subject line of the notice is an example of this requirement.

13. In Section 15(b), the words “mandated by law” are deleted.

Explanatory Note

The adjustment to this section is required in view of the cancellation of the distinction between statutory and non-statutory notices. Access to information after the termination of the agreement should be ensured, as described in this section, with respect to all notices.

14. Section 16 – repealed.

Explanatory Note

This issue is regulated by Proper Conduct of Banking Business Directive No. 367 – E-banking.

15. The heading of Section 17 is deleted and replaced by the following words: “Notice of joining the Service or a change in the details of the Service.” The text of Section 17 is marked (a). The words “Soon after first joining the service the notice shall include the main points of this Directive” are replaced by the following words: “clarifying that sending notices via communication channels is a substitute for notices sent by mail or at the branch, and that the customer may, at any time, request to receive the notices by mail or at the branch, including the ways in which the customer may so request.”

The following words are inserted after Subsection (a): “(b) In a joint account of two or more account holders who use the account jointly or severally, a banking corporation’s response to a request to receive the Service or a request to change the details of the Service will include a notice sent to the remaining partners in the account, soon after the date on which the banking corporation accedes to the request. The notice shall include the information stated in Subsection (a).”

Explanatory Note

This is a new requirement that obligates the banking corporation to clarify to the customer, in the notice of the customer’s subscription to the Service or notice of a change in the details of the Service, that notices sent via communication channels substitute for notices sent by mail or at the bank branch (if the bank operates branches), and that the customer may, in the future, request to receive notices by mail or at the branch, including the ways in which the customer may so request.

The text of Section 13, which provides instructions pertaining to joint accounts, was integrated into Section 17.

16. The following words are inserted after Section 17:

“Defining Procedures

18. The banking corporation shall define procedures for performing everything stated in this Directive, including procedures with respect to sending notices via communication channels and with respect to controls over the use of the Service and receipt of notices.”

Effective Date

17. This amendment comes into effect one year from the date of its publication. A banking corporation may adopt this Directive before the effective date of the amendment, provided that it complies with all its instructions.

File Updates

18. Following are the update pages in the Proper Conduct of Banking Business Directives file. Following are the update instructions:

Remove page	Insert page
(2/21)[6] 420-1-6	(6/21)[7] 420-1-5

Respectfully,

Yair Avidan
Supervisor of the Banks